IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9294 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMBICA RE-ROLLING MILLS

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 9294 of 2002
MR PARESH M DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 18/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 Rule.

Mr.D.N.Patel, learned Senior Central Government Standing Counsel appears and waives service of Rule. At the request of the learned Advocates the petition is finally heard today.

2 Short facts giving rise to the present petition are as under.

3 The petitioner had filed an appeal before respondent No.2. The appeal was heard on 18.12.2000 and 6.8.2001. Mr.Paresh Dave, learned Advocate had appeared on behalf of the petitioner before the Appellate Authority.

4 During the pendency of the appeal, the appellate authority viz. respondent No.2 had given a direction to Deputy Commissioner to submit his report so as to ascertain certain facts and circumstances in which certain discrepancies had taken place. The Deputy Commissioner submitted his report on 8.2.2002 to the Appellate Authority viz. respondent No.2. A copy of the said report was not given to the petitioner or his lawyer. Relying upon the said report ultimately the appeal had been dismissed.

5 The above referred facts could not be disputed by learned Advocate Shri D.N.Patel appearing for the respondent authorities.

6 In our opinion, a copy of the report, which was the basis on which respondent No.2 had dismissed the appeal, ought to have been given to the petitioner. As the petitioner was not given a copy of the said report, in our opinion, the principles of natural justice had been violated by respondent No.2.

7 In view of the above stated undisputed facts, we allow the petition by quashing and setting aside the impugned order dated 25/6/2002 passed by respondent No.2. Though a comprehensive affidavit-in-reply is filed by the respondent authorities, we do not look into the merits of the case and we allow the petition only on the ground that the principles of natural justice had not been followed by the appellate authority while passing the impugned order. The appellate authority shall hear the appeal after giving a copy of the report to the

petitioner so that the petitioner can make also submissions before the appellate authority in relation to the said report.

8 Rule is made absolute. There shall be no order as to costs.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt